

**REAL ESTATE REGULATORY AUTHORITY, BIHAR
IN THE COURT OF ADJUDICATING OFFICER, RERA, BIHAR**

RERA/CC/ 513/2023

Mira Khandelwal & Anr.Complainants

Vs

M/s Nesh India Infrastructure Pvt. Ltd. ----- Respondent

Project: Tiruvantpuram City

20/01/2026

ORDER

This case is filed to direct the respondent to transfer the title of the unit (Flat No. 302) in TIRUVANTPURAM CITY, situated at Vidhyut Nagar, Danapur, Khagaul Road, Patna to the complainants and to handover possession over it.

2. The complainants case in brief is that the respondent no. 2 (Shashi Bhusan Sinha) approached the complainants with a proposal in the year 2012 about his proposed project viz., TIRUVANTPURAM CITY, situated at Vidhyut Nagar, Danapur Khagaul Road, Patna. The respondent no.2 cajoled the complainants for consideration amount of Rs. 22,25,200/- towards the said Flat No. 302 on 3rd Floor. The complainants have already paid Rs. 18,75,200/- to the respondents. The complainants and the respondents on 19.06.2018 entered into an Agreement for sale for the said Flat No. 302. The Respondent had informed the complainants on 29.07.2016 that approval/sanction of the plan of Tiruvantpuram City (Vidhyut nagar), Danapur-Khagaul Road, Patna has been granted. The aforesaid flat was to be built up area 1268 Sq. ft. The balance amount of Rs. 3,50,000/- was agreed to be paid before the possession of the said flat. After a lapse of more than 11 years, the respondents failed to offer the possession of the aforesaid flat. The Respondent had completed the project and had been promoting and offering the flats/ units in the said project at a premium prices of more than 75,00,000/-. The Respondent had made a promise to the complainants that the construction of the said Building shall be completed in December, 2020 with a grace period of six months, but even after completion of the said building neither the Respondent delivered nor offered the delivery of possession of the said flat No. 302 on 3rd floor, which is a violation of the terms of the Agreement for Sale dated 19.06.2018. The complainants have invested their hard earned money and at present residing in

a rented flat. In such circumstances, the complainants caused to be served Legal Notices to the Respondent on 01.09.2023. No response, hence this case.

3. The respondents filed reply stating therein that this complaint petition is to be rejected on the ground that the respondents never offered any proposal to the complainants for investing in the project because no project was there in place at that relevant time. An amount of Rs. 18,75,200/- was deposited by the complainants in the year 2012 but it was not against any project of the respondent company and this amount has been credited in the account of the respondent company and it was for investment as prospective buyer in the project of the respondent company. The respondent company by a letter dated 29.07.2016 informed the complainants that the sanction plan of the project of the company has been cleared and they were communicated to visit the office for finalization of further course of action but unfortunately, they never visited the office of the respondent company so that any flat/ unit can be finalized. The project was sanctioned in the year 2016 and there was no occasion for the respondent company to give any proposal to the complainants to invest in the project in the year 2012. The respondent has never received any legal notice of the complainants. The money was given in the year 2012 and as per Limitation Act for realization of money, 3 years is the limitation period but in the present case nothing was communicated nor any letter was sent to the company for realization of payment of the said amount deposited by the complainants. As per Clause-19 of the agreement any dispute is to be resolved through Arbitration and Conciliation Act but the complainants have chosen wrong forum contrary to the Agreement in question. Delivery of possession and/or date of possession in the matter, not specifically stipulated in the agreement and also in case of any dispute or any question arising any time between the buyer and any employees of the builder or any other buyer or buyers of the other units, all such matters shall be referred to the arbitration of the builder or to the nominees of the builder. Extension of this project has not been granted by the Authority and it is pending consideration in the Authority pursuant to which lapse proceedings was initiated by the Authority which had been stayed by the Hon'ble Court and under these facts and circumstances, the Authority has no jurisdiction to hear the matter. The map for violation of the said project is also pending before Patna Metropolitan Area Authority wherein

the environment clearance has to be given by the respondent company but since the notification of environment clearance has been stayed by the Hon'ble Apex Court as such, the environment clearance cannot be granted by the State Environment Impact Assessment Society and as such it is also pending consideration. The respondent has filed one CWJC No. 4368 of 2024 against the proceedings initiated by the Authority and the same has been stayed by the Hon'ble Patna High Court. There is no fault attributed to the respondent company and as such, the respondent company is ready to refund the amount paid by the complainants with requisite interest and as such, the complaint petition is fit to be dismissed without granting any indulgence.

4. After hearing and perusal of record it appears that the transaction of money made by the complainants to the respondent was made in the year 2016 and for said transaction an agreement of sale deed was executed on 19.02.2018, which is admitted fact. As per complainants this payment was made for flat mentioned in the project of respondent, whereas as per respondent this amount was invested in the company as a prospective buyer as at the time of payment of amount, and at that relevant time there was no project of the company in question. It is admitted by the respondent that he sent a letter on 29.07.2016 to the company to inform about sanction plan of the project company and the complainants were communicated to visit the office for investigation of further course of action, but unfortunately the complainants never visited the office. As the respondent has admitted the fact that the agreement of sale was executed in the year 2018. The respondent has further stated in his reply that he is ready to refund the amount which the complainants have paid to him. There is nodoubt construction has not been completed and stay order has been made to the respondents and under such circumstances the respondent is neither able to complete the project nor in a position to deliver the aforesaid flat. So far the matter is to be decided by the Arbitration as per Arbitration Act is concerned, also does not appear to be reasonable as the agreement for sale was executed in 2018 and the registration of the company is disputed and the matter has already come in RERA, as it's specific Act for this purpose is existence, however, the respondent himself is ready to pay the amount which he has received.

However, during argument, the learned counsel of respondent agreed to pay the amount which complainant has paid.

5. Considering the aforesaid facts and circumstances, it is clear that Rs. 18,75,200/- was given by the complainants to the respondents.

6. The respondent is directed to pay the aforesaid amount plus interest calculated at the rate of marginal cost of fund based lending rates (MCLR) of the State Bank of India as applicable for three years plus 2% per month. The complainants.

7. The respondent is directed to pay the aforesaid amounts within 60 days from the date of issue of this order.

8. With the aforesaid observations and directions this case is disposed of.

Sd/-

(Vinod Kumar Tiwari)

Adjudicating Officer
RERA, Bihar